

Message Text

CONFIDENTIAL

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70

ACTION ARA-10

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FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 3268

C O N F I D E N T I A L PANAMA 1429

FOR ARA/PAN-MORRIS FROM BELL

EO 11652: GDS

TAGS: PFOR, PN

SUBJ: BOSTON-PANAMA CASE

1. BELIEVE DEPARTMENT OFFICERS HAVE GONE RATHER FAR BEYOND THE EXTENSION OF NORMAL GOOD OFFICES IN THIS CASE, IN AN EFFORT TO PREEMPT UNPLEASANT CONSEQUENCES FOR THE NEGOTIATING CLIMATE, THEN FOR THE RATIFICATION PROCESS. WHILE AGREEING WITH THAT, THE BOSTON-PANAMA PEOPLE ARE TRYING TO PRESS THE DEPARTMENT FURTHER STILL, MOST RECENTLY VIA THE ATTORNEY'S "PERSONAL-CONFIDENTIAL" LETTER TO ME OF FEBRUARY 13 WHICH SEEMS TO THREATEN, NOT PANAMA, BUT THE UNITED STATES GOVERNMENT. TO GO FARTHER IS INAPPROPRIATE AND, IN ANY CASE, COUNTERPRODUCTIVE VIS-A-VIS THE PANAMANIAN. IT IS OPPORTUNE, THEN, TO PLACE THE BURDEN OF COMING TO PRACTICAL TERMS WITH PANAMA ON BOSTON-PANAMA, ALTHOUGH NATURALLY WITHOUT WITHDRAWING OUR EXERCISE OF GOOD OFFICES. THE ATTACHED RESPONSE TO HELLER ATTEMPTS TO ACCOMPLISH THAT. WOULD BE GRATEFUL IF YOU WOULD PASS FULL TEXT OF IT TO HIM IMMEDIATELY ON "PERSONAL-CONFIDENTIAL" BASIS. COMING DIRECTLY FROM THE NEGOTIATING ARENA, IT MAY HAVE MORE IMPACT ON HIM THAN WOULD RESULT FROM A CONVERSATION IN WASHINGTON.

2. BEGIN TEXT

DEAR JACK,

I RECEIVED YOUR FEBRUARY 13 LETTER JUST BEFORE LEAVING

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WASHINGTON FOR THE NEXT NEGOTIATING ROUND. BUT THE RELATIVE

TRANQUILITY OF CONTADORA, AND THE PRESENCE OF HIGH PANAMANIAN PERSONNAGES ON IT, HAVE PERMITTED A BETTER RESPONSE THAN I COULD HAVE MADE IN WASHINGTON.

AMBASSADOR GONZALEZ-REVILLA'S COMMENTS TO YOU DURING THE FEBRUARY 10 INTERVIEW INTO WHICH WE CAJOLED HIM DO NOT NECESSARILY INDICATE AN ABSENCE OF INTEREST ON YOUR CLIENT'S CASE WITHIN THE GOVERNMENT OF PANAMA. SURELY IT WOULD HAVE BEEN BAD BARGAINING TACTICS ON HIS PART TO ACKNOWLEDGE, AT THE OUTSET, THAT YOUR CLIENT'S "FORBEARANCE" COULD BE REGARDED AS "HAVING DONE SOMETHING FOR PANAMA." OR THAT YOUR CLIENT'S CLAIM HAS "LEGAL OR EQUITABLE MERIT." OR, INDEED, THAT THERE IS ANY GRAVITY FOR PANAMA IN THIS MATTER.

IN THAT CONNECTION, I DELIEVE THAT THE SIX ORAL DEMARCHES TO THE AMBASSADOR, PLUST THE INFORMAL "AIDE MEMOIRE" PASSED TO HIM, HAVE PUT THE PANAMANIAN'S SUFFICIENTLY ON NOTICE OF THE POTENTIAL CONSEQUENCES OF LEAVING THIS MATTER UNATTENDED.

IN MY JUDGMENT FURTHER REPRESENTATIONS TO THE GOVERNMENT OF PANAMA WOULD BE REGARDED -- AT THIS JUNCTURE, AT LEAST -- AS HEAVY PRESSURE, AND THUS BE PREJUDICIAL TO YOUR CLIENT'S CASE.

I THINK YOU MIGHT NOW DO WELL TO ACCOMMODATE TO THE APPARENTLY IRRECONCILABLE NATURE OF THE LEGAL POSITIONS OF THE PANAMANIAN GOVERNMENT AND YOUR CLIENT, TRYING TO DEVELOP A WAY OF PROCEEDING WHEREBY BOTH PARTIES COULD ADEQUATELY PRESERVE THEIR RESPECTIVE LEGAL POSITIONS WITHOUT RAISING THEM REPEATEDLY IN THEIR TALKS.

PANAMA WOULD NOT REQUIRE YOU TO ACCEPT ITS VIEW THAT THE CASE WAS PROPERLY RESOLVED AGAINST YOUR CLIENT, AND THAT YOU ARE BARGAINING TO REOPEN IT. SIMILARLY YOU WOULD NOT ASK PANAMA TO ACKNOWLEDGE THE MERITS OF YOUR CLIENT'S CASE AS A PRE-CONDITION TO NEGOTIATIONS. RATHER YOU WOULD PROCEED TO DISCUSS POSSIBLE PACKAGE "TRANSACTIONS" THAT MIGHT RESULT IN A SETTLEMENT. SUCH TALKS COULD ENCOMPASS ALL ELEMENTS SIMULTANEOUSLY: WHAT SORT OF CAMPAIGN PANAMA INTENDS TO MOUNT DURING THE RATIFICATION PROCESS; WHAT ASSISTANCE YOUR CLIENT MIGHT BE ABLE
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TO PROVIDE; AND WHAT TYPE OF COMPENSATION COULD BE FORTHCOMING TO YOUR CLIENT. NO ONE ELEMENT WOULD BE DISCUSSED INDEPENDENTLY OF THE OTHERS.

PERHAPS THE FOREGOING IS GRATUITOUS ADVICE, BUT IT DERIVES FROM EXPERIENCE WITH TWO OTHER "NEAR EXPROPRIATIONS" IN PANAMA, IN BOTH OF WHICH IT WORKED.

I HAVE NOT SHOWN YOUR LETTER TO THE AMBASSADOR, AND WILL
CONTINUE TO HOLD IT IN MY FILES AS A PERSONAL DOCUMENT. HE WILL
BE IN WASHINGTON AGAIN FOR A FEW DAYS BEGINNING THE EVENING
OF MARCH 13, AND PERHAPS YOU MIGHT WANT TO TRY CATCHING HIM.

ALL THE BEST. MOREY END TEXT.
JORDEN

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